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Randy Ulvenes

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EXAMINER

LAI, MICHAEL C

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/694,429	<b>Applicant(s)</b> ULVENES, RANDY	
	<b>Examiner</b> MICHAEL C. LAI	<b>Art Unit</b> 2457	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 12/1/ 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 13-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 13-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### DETAILED ACTION

1. This office action is responsive to communication filed on 12/1/2009.

#### *Response to Amendment*

2. The examiner has acknowledged no claim is amended.

#### *Response to Arguments*

3. Applicant's arguments presented in the appeal brief dated 12/1/2009 is persuasive and, therefore, the finality of office action dated 8/18/2009, is **withdrawn and the prosecution is hereby reopened**. However, upon further consideration of the available prior arts, the claimed subject matter is rejected with the new grounds of rejection. This office action is made non-final.

#### *Claim Rejections - 35 USC § 112*

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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5. Claims 14, and 16-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 14 recites the limitation “the adding function” in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim 16 recites the limitation “the access channel” in line 11. There is insufficient antecedent basis for this limitation in the claim.

Claim 20 recites the limitation “the access channel” in lines 12-13. There is insufficient antecedent basis for this limitation in the claim.

All dependent claims are necessarily rejected as being dependent upon the rejected claims.

### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1, 2, 4, 5, 13, 15 are rejected under 35 U.S.C. 102(e) as being anticipated by Banerjee et al. (US 2003/0187806 A1, hereinafter referred to as Banerjee).

Regarding claim 1, Banerjee discloses: In a communication system wherein a request for web content is transmitted over a communication path from

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a client station to a content server, a method comprising the following functions carried out during transmission of the web request within the communication path, between the client station and the content server:

- computing a size-based cost to access the web content [see at least abstract, “calculating...”; para. 0050, file size and bandwidth usage cost];

- engaging in interstitial communication with the client station to receive user approval to pay the size-based cost [see at least para. 0054, user data entry and dialogue box]; and

- after receiving the user approval, sending the request along to the content server [see at least para. 0054, user selection through the usual GUI objects such as pull down menus, radio buttons, and dialogue boxes; para. 0024, “a user points to the anchor, clicks it to invoke the link, and the browser then retrieves and displays Document Y from server SrvrX”].

Regarding claim 2, Banerjee discloses the method of claim 1, wherein computing the size-based cost to access the web content comprises:

- multiplying a charging-rate by a size of the web content [para. 0065].

Regarding claim 4, Banerjee discloses: In a communication system wherein web content is transmitted over a communication path from a content server to a client station, a method comprising the following functions carried out during transmission of the web content within the communication path, between the content server and the client station:

computing a size-based cost to access the web content [see at least abstract, “calculating...”; para. 0050, file size and bandwidth usage cost];

engaging in interstitial communication with the client station to receive user approval to pay the size-based cost [see at least para. 0054, user data entry and dialogue box]; and

after receiving the user approval, sending the web content along to the client station [see at least para. 0054, user selection through the usual GUI objects such as pull down menus, radio buttons, and dialogue boxes; para. 0024, “a user points to the anchor, clicks it to invoke the link, and the browser then retrieves and displays Document Y from server SrvrX”].

Regarding claim 5, Banerjee discloses the method of claim 4, wherein computing the size-based cost to access the web content comprises:

multiplying a charging-rate by a size of the web content [para. 0065].

Regarding claim 13, Banerjee discloses a communication system wherein web content is transmitted over a communication path from a content server to a client station, the web content defining a hyperlink to be presented by a browser running on the client station, the hyperlink pointing to referenced web content, a method comprising:

during transmission of the web content within the communication path, between the content server and the client station, (i) computing a size-based cost to access the web content [see at least abstract,

“calculating...”; para. 0050, file size and bandwidth usage cost] and (ii) adding an indication of the size-based cost into the web content, in conjunction with the hyperlink, such that the indication will be presented to a user when the web content is presented to the user [see at least FIG. 5, and para. 0060, Download cost for second web page.].

Regarding claim 15, Banerjee further discloses engaging in interstitial communication with the user to collect user-payment of the size-based cost for the referenced web content [para. 0054, user dialogue, para. 0062].

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 3 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Banerjee as applied to claim 1, and in view of Kumar et al. (US 2003/0083041 A1, hereinafter referred to as Kumar).

Regarding claim 3, Banerjee discloses the method of claim 2, but fails to teach wherein computing the size-based cost to access the web content further comprises: selecting the charging rate based at least in part on a factor selected from the group consisting of (i) a service level of a user requesting the web content. However, Kumar discloses computing the size-based cost is based on

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the user desired quality of service level [para 0045]. It would have been obvious to a person with ordinary skill in the art at the time the invention was made to incorporate Kumar's teaching into Banerjee's method for the purpose of providing various service levels by selecting the charging rate based on service levels of the users requesting the web content, thereby satisfying different users with different needs.

Regarding claim 6, Banerjee discloses the method of claim 5, but fails to teach wherein computing the size-based cost to access the web content further comprises: selecting the charging rate based at least in part on a factor selected from the group consisting of (i) a service level of a user requesting the web content. However, Kumar discloses computing the size-based cost is based on the user desired quality of service level [para 0045]. It would have been obvious to a person with ordinary skill in the art at the time the invention was made to incorporate Kumar's teaching into Banerjee's method for the purpose of providing various service levels by selecting the charging rate based on service levels of the users requesting the web content, thereby satisfying different users with different needs.

10. Claims 14, 16-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Banerjee as applied to claim 13, and in view of Vacanti et al. (US 6,987,987 B1, hereinafter Vacanti).

Regarding claim 14, Banerjee discloses the method of claim 13, but fails to teach an access channel between content server and client station, and



carrying out at least the adding function within the access channel. However, Vacanti discloses an HTTP communication path in a wireless communication system including a portal within an access channel [Fig. 5 and col. 8, lines 6-18]. It would have been obvious to a person with ordinary skill in the art at the time the invention was made to incorporate Vacanti's teaching into Banerjee's method for ultimate receipt and presentation by the client station.

Regarding claim 16, Banerjee discloses a communication system wherein web content is transmitted over a communication path from a content server to a client station, a method comprising, during transmission of the web content within the communication path, the following functions:

- receiving the web content [see at least abstract, downloading web content];

- detecting a hyperlink within the web content, wherein the hyperlink points to referenced web content [see at least abstract, second web page];

- determining a cost of the referenced web content based at least in part on a size of the referenced web content [see at least abstract, determining a download cost for the second web page; para. 0060, 0065];

- adding into the web content, in conjunction with the hyperlink, an indication of the determined cost [see at least abstract, displaying the cumulative download cost for the second web page; para. 0060, 0065];
- and

whereby the indication will be presented to a user when the web content is presented to the user, thereby giving the user an advanced notice of the cost of the referenced web content [see at least abstract, displaying the cumulative download cost for the second web page, taking into account bandwidth cost, usage cost, and any user credits; para. 0060, 0065].

Banerjee discloses the claimed invention, but fails to teach sending the web content, including the indication, along the access channel to the client station. However, Vacanti discloses an HTTP communication path in a wireless communication system including a portal within an access channel and sending the web content, including the indication, along the access channel to the client station [see at least Fig. 5, col. 8, lines 6-18, and col. 23, lines 57-60: After collecting the user's payment or agreement to pay or be billed, the system may then send the HTTP response along to the client station, for presentation of the requested content to the user]. It would have been obvious to a person with ordinary skill in the art at the time the invention was made to incorporate Vacanti's teaching into Banerjee's method for ultimate receipt and presentation by the client station.

Regarding claim 17, Vacanti discloses the method of claim 16, wherein the communication path comprises an access channel between client station and a packet-switched network [Fig. 5, col. 8, lines 6-18; FIG. 8] the method

comprising carrying out the functions within the access channel. See motivation in claim 16.

Regarding claim 18, Banerjee discloses the method of claim 16, wherein determining the size-based cost comprises multiplying a charging rate by the size of the web content [para. 0065].

Regarding claim 19, Banerjee discloses the method of claim 16, wherein the web content is defined by a set of markup language [para. 0023], and wherein adding the indication of the size-based cost in conjunction with the hyperlink comprises adding into the set of markup language [para. 0060], adjacent to the hyperlink, display text indicative of the size-based cost [para. 0062].

7. Regarding claim 20, Banerjee discloses an intermediation system disposed within a web communication path between a client station and a packet-switched network, the intermediation system comprising:
  - a network interface for receiving and sending communications on the HTTP communication path, wherein the network interface receives a communication that carries web content and the web content defines a hyperlink that points to referenced web content [see at least abstract, second web page; Fig. 1 and para. 0047];
  - cost-computation logic for computing a size-based cost to access the referenced web content [see at least para. 0065]; and

cost-embellishment logic for inserting into the web content an indication of the size-based cost to access the referenced web content and for thereby establishing cost-embellished web content [see at least para. 0060, 0064];

wherein the network interface sends the cost-embellished web content for presentation of the cost-embellished web content by a browser running on the client station [see at least para. 0066, 0067].

Banerjee discloses the claimed invention, but fails to teach sending the cost-embellished web content along the access channel to the client station. However, Vacanti discloses an HTTP communication path in a wireless communication system including a portal within an access channel and sending the web content, including the indication, along the access channel to the client station [see at least Fig. 5, col. 8, lines 6-18, and col. 23, lines 57-60: After collecting the user's payment or agreement to pay or be billed, the system may then send the HTTP response along to the client station, for presentation of the requested content to the user]. It would have been obvious to a person with ordinary skill in the art at the time the invention was made to incorporate Vacanti's teaching into Banerjee's method for ultimate receipt and presentation by the client station.

Regarding claim 21, Banerjee further discloses that the cost-computation logic and cost-embellishment logic are embodied in software executable by a processor [para. 0060].

Regarding claim 22, Vacanti discloses the intermediation system of claim 20, wherein the communication path comprises an access channel between the client station and a packet-switched network, and wherein the intermediation system is disposed within the access channel [Fig. 5, col. 8, lines 6-18FIG. 8]. See motivation in claim 20.

Regarding claim 23, Vacanti discloses the intermediation system of claim 22, wherein the client station is a mobile station, and the access channel comprises an air interface and a radio access network [Fig. 5, col. 8, lines 6-18; FIG. 8]. See motivation in claim 20

Regarding claim 24, Banerjee discloses the intermediation system of claim 22, further comprising:

size data that specifies the size of the referenced web content,  
wherein the cost-computation logic computes the size-based cost at least in part by applying a charging-rate to the size [para. 0065].

Regarding claim 25, Banerjee discloses the intermediation system of claim 22, but fails to teach: exception data that indicates whether a user of the client station already has a right to access the referenced web content, wherein the cost-embellishment logic doesn't insert the indication of size-based cost if the exception data specifies that the user of the client station already has a right to

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access the referenced web content. However, Vacanti teaches this limitation in col. 13, lines 45-50. It would have been obvious to a person with ordinary skill in the art at the time the invention was made to incorporate Vacanti's teaching into Banerjee's system for security purpose.

### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Colson et al., US 2003/0128229 A1, has taught a method and system for allowing a user to determine whether to view web content based on cost.

Kurihara, US 2004/0098470 A1, has taught a size-based charging scheme.

**Examiner's Note:** Examiner has cited particular columns and line numbers in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

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In the case of amending the claimed invention, Applicant is respectfully requested to indicate the portion(s) of the specification which dictate(s) the structure relied on for proper interpretation and also to verify and ascertain the metes and bounds of the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL C. LAI whose telephone number is (571)270-3236. The examiner can normally be reached on M-F 8:30 - 5:00 EST. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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27FEB2010

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